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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,844	07/21/2003	Kenneth G. DeRoche	K-1851	6525

7590 12/08/2004
Larry R. Meenan
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EXAMINER

FRIDIE JR, WILLMON

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/623,844	Applicant(s) DEROCHE ET AL.	
	Examiner Willmon Fridie	Art Unit 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 20-22 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by David et al..

David et al. discloses all of the subject matter as set forth in the claims and is identical to the invention as broadly recited. Some of the claimed elements clearly disclosed by the reference are: insert pocket (4',5'); cutting insert with first and second faces (6,7), first and second long edge surfaces (10,10'), first and second shorter edge surfaces (6,7) wherein each cutting insert is mounted with a reverse lead angle and a negative axial rake angle.

Claims 12 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bernadic et al.

Bernadic et al. discloses all of the subject matter as set forth in the claims and is identical to the invention as broadly recited. Some of the claimed elements clearly disclosed by the reference are with first and second faces , a flat central plateau (12), first, second, and third facet faces (14,18,28) where its central plateau is generally hexagonal.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 13-17, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernadic et al.

In regard to the abovementioned claims discloses the claimed invention except for the claimed angle values and ranges. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the claimed angle values and ranges since it appears that the cutting efficiency of the tool would remain consistent through these claimed ranges and since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over David et al.

In regard to the abovementioned claims discloses the claimed invention except for the claimed angle values and ranges. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the claimed angle values and ranges, since it appears that the cutting efficiency of the tool would remain consistent through these claimed ranges and since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over David et al. In view of Bernadic et al.

In regard to the abovementioned claims discloses the claimed invention except for the claimed angle values and ranges. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the claimed angle values and ranges since it appears that the cutting efficiency of the tool would remain consistent through these claimed ranges and since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

Applicant's arguments filed 10/7/04 have been fully considered but they are not persuasive..

In response to applicant's arguments that the cutting insert of David is not tangentially mounted nor mounted with a reverse lead angle, the examiner submits that applicant's arguments are more specific than the language of the claims as broadly

presented. David's insert is tangentially mounted with respect to its tool body and has a reverse lead angle relative to the longitudinal axis depending from what angle or point of view is used. No such specific orientation and observation limitations are present in the claims.

In response to applicant's arguments concerning the facets of bernadic et al. the examiner submits that the first ,second and third facets of Bernadic et are adjacent to each other and meet the limitations set forth in the claims as broadly presented.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3722

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willmon Fridie whose telephone number is 571 272 4476. The examiner can normally be reached on 9-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 571 272 4483. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**WILLMON FRIDIE, JR.
PRIMARY EXAMINER**